IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5632 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LAKHIBEN WD/O SOMABHAI JAGHABHAI

Versus

SHANTABEN WD/O BUDHIYABHAI GANDABHAI

Appearance:

1. Special Civil Application No. 5632 of 1997

MR RN SHAH for Petitioner No. 1

MR JB PARDIWALA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 19/11/2003

ORAL JUDGEMENT

1. By filing instant petition under Article 227 of the Constitution, the petitioner has brought under challenge legality and propriety of the order dated 12.6.1997 passed in Revision Application No. TEN BS 196/92 by the Gujarat Revenue Tribunal, Annexure A, confirming the order dated 9.10.1992 passed in Tenancy Appeal No. 85 of 1990 by the Deputy Collector, Navsari and order dated 7.9.1990 in Tenancy Case No.70 (nb) 8/87

by Mamlatdar & Agricultural Lands Tribunal, Navsari at Annexures B and C respectively and prayed to quash and set aside the said orders.

2. When the matter was placed for admission hearing on 10.10.1997, this Court (Coram: M.R. Calla, J.) has passed the following order:

> "Mr. R.N. Shah for the petitioner.
> Learned counsel has placed reliance on 16 GLR page 1009 (Gordhanbhai v/s. Ramji Mandir, Ahmedabad).
> Rule. Notice as to interim relief returnable on 21.10.97. In the meanwhile status quo in respect of the land in question, as obtaining today, shall be maintained."

3. By virtue of the aforesaid order, rule has been issued and notice as to interim relief was granted and in the meanwhile the parties were directed to maintain status quo in respect of the land in question as obtaining on that day. Thereafter the said order has remained operative till today.

4. Today when the matter is called out, Mr. R.N. Shah, learned advocate of the petitioner - landlady and Mr. J.B. Pardiwala, learned advocate of the respondent - tenant jointly stated at the Bar that the present petition is arising out of the proceedings initiated by the tenant under Section 70 (b) of the Bombay Tenancy and Agricultural Lands Act, 1948 ('the Act' for short). In the said proceedings the tenant has also filed an application under Section 70 (nb) of the said Act and obtained interim injunction in her favour which has been confirmed by the Deputy Collector, Navsari in appeal as well as by the Gujarat Revenue Tribunal in exercise of revisional powers. They, therefore, urged to issue necessary direction to the Mamlatdar & Agricultural Lands Tribunal, Navsari to decide the application filed by the respondent/tenant under Section 70(b) of the Act which is still pending, as expeditiously as possible and in accordance with law and during that time the parties may be directed to maintain status quo as existed on 10.10.1997 when this Court has passed order directing both the parties to maintain status quo.

5. In aforesaid view of the matter and on the facts and in the circumstances emerging from the record of the case and also on consensus arrived at between the parties, the Mamlatdar & ALT, Navsari is directed to decide the Tenancy Case filed by the respondent/tenant

under section 70(b) of the Act as expeditiously as possible and in accordance with law. Till the tenancy case is decided, both the parties are directed to maintain status quo in respect of the land in question as obtained on 10.10.1997.

6. Seen in the above context, the petition succeeds and accordingly it is allowed. Rule is made absolute. There shall be no order as to costs.

(A.M. Kapadia, J.)

(karan)